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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,195	09/30/2003	Andrew Fikes	025.0366.U.S.UTL	7103
82402	7590	05/26/2010	EXAMINER	
Straub & Pokotylo			NGUYEN, TRI V	
788 Shrewsbury Avenue			ART UNIT	
Tinton Falls, NJ 07724			PAPER NUMBER	
			1796	
			MAIL DATE	
			DELIVERY MODE	
			05/26/2010	
			PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/676,195

Applicant(s)

FIKES ET AL.

Examiner

TRI V. NGUYEN

Art Unit

1796

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5, 8, 11, 13-15, 17-25, 27, 28 and 30-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-5, 8, 11, 13-15, 17-25, 27, 28 and 30-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 1/18/2010
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Upon entry of the amendment filed on 2/12/2010, Claims 2, 8, 11, 13-15, 17-25, 27, 28 and 30 are amended; Claims 31-34 are added and Claims 1, 6, 7, 9, 10, 12, 16, 26 and 29 are cancelled. The currently pending claims are Claims 2-5, 8, 11, 13-15, 17-25, 27, 28, 30-34.

Based on applicants' remarks and amendments, the 101 rejections are withdrawn; however, the 103(a) rejections are maintained.

Information Disclosure Statement

2. The IDS filed 1/18/2010 has been considered. An initialed copy accompanies this action.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 2-5, 13-15, 17-19, 21, 27, 28 and 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitsubishi (JP 2002-073680 - cited in IDS of 09/18/09; translation provided by applicants and attached machine-based translation are referenced from hereon).

Claim 2: Mitsubishi discloses a system for automatically targeting Web-based advertisements, comprising:

(a) an indexer to identify advertisements relative to a query, wherein identified advertisements describe characteristics relative to at least one of a product and a service (§ 81, 84, 86, 102, 105 and fig 20);

- (b) a scorer to score the advertisements according to match between the query and the characteristics of the identified advertisements (§87-90);
- (c) an advertising creative generator to generate an advertising creative based on the characteristics of at least one such identified advertisement (§ 89-92); and
- (d) a targeting component to provide at least some of the advertisements as Web-based content (§94, 101 and fig 20), wherein a numerical score is assigned to the identified advertisements based on a degree of the match (§86-90).

Mitsubishi discloses the claimed invention but does not explicitly disclose the numerical scoring system. Mitsubishi teaches the degree of matching between a search query term and respective word vectors registered in the advertising information database via arithmetic calculations (§ 88) and the use of numerical cutoffs (§72). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Mitsubishi, with using numerical element to evaluate the degree of matching since it was known in the art that numerical values are used to provide a quantitative evaluation. Furthermore, Mitsubishi teaches the use of a vector product as an evaluation tool and it is noted that the result of vector product is usually a scalar.

Claim 3: Mitsubishi discloses a system according to claim 2, wherein the numerical score is determined relative to at least one of a content match and a categorical match (§90).

Claim 4: Mitsubishi discloses a system according to claim 2, further comprising: a sorter to sort at least some of the identified advertisements by the numerical score (§86-90).

Claim 5: Mitsubishi discloses a system according to claim 4, further comprising: a selector to

select at least some of the sorted identified advertisements relative to a predefined threshold (§86-90).

Claim 13: Mitsubishi discloses a system according to claim 2, wherein the advertising creative is provided as part of the at least some of the advertisements (§92).

Claim 14: Mitsubishi discloses a system according to claim 2, wherein the advertising creative is provided as at least one of a hint provided with at least one such identified advertisement, predefined text, a precomputed advertising creative, and a cached advertising creative (§92).

Claim 15: Mitsubishi discloses a method for automatically targeting Web-based advertisements, comprising:

- (a) identifying advertisements relative to a query, wherein identified advertisements describe characteristics relative to at least one of a product and a service (§ 81, 84, 86, 102, 105 and fig 20);
- (b) scoring the advertisements according to a degree of a match between the query and the characteristics of the identified advertisements (§86-90);
- (c) an advertising creative generator to generate an advertising creative based on the characteristics of at least one such identified advertisement (§ 89-92); and
- (d) providing at least some of the advertisements as Web-based content (§94, 101 and fig 20).

Mitsubishi discloses the claimed invention but does not explicitly disclose the numerical scoring system. Mitsubishi teaches the degree of matching between a search query term

and respective word vectors registered in the advertising information database via arithmetic calculations (§ 88) and the use of numerical cutoffs (§72). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Mitsubishi, with using numerical element to evaluate the degree of matching since it was known in the art that numerical values are used to provide a quantitative evaluation. Furthermore, Mitsubishi teaches the use of a vector product as an evaluation tool and it is noted that the result of vector product is usually a scalar.

Claim 17: Mitsubishi discloses a method according to claim 15, further comprising: determining the numerical score relative to at least one of a content match and a categorical match (§86-90).

Claim 18: Mitsubishi discloses a method according to claim 15, further comprising: sorting at least some of the identified advertisements by the numerical score (§86-90).

Claim 19: Mitsubishi discloses a method according to claim 18, further comprising: selecting at least some of the sorted identified advertisements relative to a predefined threshold (§88).

Claim 21: Mitsubishi discloses a method according to claim 15, further comprising: ranking the identified advertisements using a selection criterion; and ordering at least some of the ranked identified advertisements. Mitsubishi discloses the claimed invention but does not explicitly disclose the ranking hierarchy. Mitsubishi teaches the degree of matching between a search query term and respective word vectors registered in the advertising information database via arithmetic calculations (§ 86-90) and the use of numerical cutoffs

prior to select the advertisement to be shown (\$72). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Mitsubishi, with using a ranking hierarchy to evaluate the degree of matching since it was known in the art that numerical values are used to provide a quantitative evaluation - how else would the system select the proper advertisement relative to a cutoff except via ranking relative to a cutoff?

Claim 22: Mitsubishi discloses a method according to claim 21, further comprising: selecting at least some of the ordered identified advertisements relative to a ranking cutoff (§86-90).

Claim 27: Mitsubishi discloses a method according to claim 15, further comprising: providing the advertising creative as part of the at least some of the advertisements (§92).

Claim 28: Mitsubishi discloses a method according to claim 15, further comprising: providing the advertising creative as at least one of a hint provided with at least one such identified advertisement, predefined text, a pre-computed advertising creative, and a cached advertising creative (§92).

Claim 30 describes the apparatus of the method of claim 15; thus the prior art of Mitsubishi referenced in claim 15 is used in the rejection of claim 30.

Claim 31: Mitsubishi discloses a system according to claim 2, wherein the advertising creative generator further uses terms from the query to summarize the at least one of a product and a service described by the advertisement in the generated advertising (§87-92).

Claim 32: Mitsubishi discloses a method according to claim 2, wherein the advertising creative generator further uses terms from the query to summarize the at least one of a product and a service described by the advertisement in the generated advertising (§87-92).

Claim 33: Mitsubishi discloses a method according to claim the computer-implemented system according to Claim 2, wherein the characteristics of at least one such identified advertisement which the advertising creative is based on includes at least one of (A) a merchant name, (B) a product or service name, (C) a Uniform Resource Locator address to identify online product or service information, (D) a price of a product or service, (E) a assigned category of a product or service, (F) a type of product or service, (G) a classified category of a product or service, and (H) a confidence level of a classified category assigned to a product or service (§89-92).

Claim 34: Mitsubishi discloses a system according to Claim 15, wherein the characteristics of at least one such identified advertisement which the advertising creative is based on includes at least one of (A) a merchant name, (B) a product or service name, (C) a Uniform Resource Locator address to identify online product or service information, (D) a price of a product or service, (E) a assigned category of a product or service, (F) a type of product or service, (G) a classified category of a product or service, and (H) a confidence level of a classified category assigned to a product or service (§89-92).

5. Claims 8, 11, 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitsubishi (2003/0050863) in view of Radwin (US 2003/0050863 and Elderling (US 6216129).

Claims 8 and 11: Mitsubishi discloses a system for automatically targeting Web-based advertisements, comprising:

- (a) an indexer to identify advertisements relative to a query, wherein identified advertisements describe characteristics relative to at least one of a product and a service (§ 81, 84, 86, 102, 105 and fig 20);
- (b) a scorer to score the advertisements according to match between the query and the characteristics of the identified advertisements (§86-90); and
- (c) a targeting component to provide at least some of the advertisements as Web-based content (§94, 101 and fig 20),
- (d) a ranker to rank the identified advertisements using a selection criteria and ordering at least some of the ranked identified advertisements (§86-90); and
- (e) a selector to select at least some of the ordered identified advertisements relative to a ranking cutoff (§86-90).

Mitsubishi discloses the claimed invention but does not explicitly disclose the ranking hierarchy. Mitsubishi teaches the degree of matching between a search query term and respective word vectors registered in the advertising information database via arithmetic calculations (§ 86-90) and the use of numerical cutoffs prior to select the advertisement to be shown (§72). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Mitsubishi, with using a ranking hierarchy to evaluate the degree of matching since it was known in the art that numerical values are used to provide a quantitative evaluation - how else would the system select the proper advertisement relative to a cutoff except via ranking relative to a cutoff?

Mitsubishi discloses the claimed invention but does not explicitly disclose the feature of an evaluator and selector to evaluate the selection criteria based on at least one of a fixed

cost, variable cost. It is noted that Mitsubishi teach the feature of cost evaluation (§95-100). In an analogous art, Radwin teach the feature of fixed and variable cost evaluation (§3, 4) and Elderling teach the feature of cost evaluation based on the degree of matching (col 11, line 1-11 and col 13, lines 55-67). It would have been recognized that applying the technique of cost evaluation related to the degree of matching to the teachings of cost evaluation related to the degree of matching would have yielded predictable results because the level of ordinary skill in the art demonstrated by the references applied shows the ability to such cost evaluation features into similar systems. Further, the valuation feature would have been recognized by those of ordinary skill in the art as resulting in an improved system that would allow for an effective pricing and selection schematic.

Claims 22-25: Mitsubishi discloses a method according to claim 21, but does not explicitly disclose further comprising: evaluating the selection criteria based on at least one of a fixed cost, variable cost, and random factor associated with one or more of the identified advertisements and selecting the advertising material based on the evaluation.

Mitsubishi discloses the claimed invention but does not explicitly disclose the ranking hierarchy. Mitsubishi teaches the degree of matching between a search query term and respective word vectors registered in the advertising information database via arithmetic calculations (§ 86-90) and the use of numerical cutoffs prior to select the advertisement to be shown (§72). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Mitsubishi, with using a ranking hierarchy to evaluate the degree of matching since it was known in the art that numerical values are used to provide a quantitative evaluation - how else would the system select the proper advertisement relative to a cutoff except via ranking relative to a cutoff?

It is noted that Mitsubishi teach the feature of cost evaluation (§95-100). In an analogous art, Radwin teach the feature of fixed and variable cost evaluation (§3, 4) and Elderling teach the feature of cost evaluation based on the degree of matching (col 11, line 1-11 and col 13, lines 55-67). It would have been recognized that applying the technique of cost evaluation related to the degree of matching to the teachings of cost evaluation related to the degree of matching would have yielded predictable results because the level of ordinary skill in the art demonstrated by the references applied shows the ability to such cost evaluation features into similar systems. Further, the valuation feature would have been recognized by those of ordinary skill in the art as resulting in an improved system that would allow for an effective pricing and selection schematic available to the advertisers.

6. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mitsubishi (2003/0050863) in view of Radwin (US 2003/0050863).

Mitsubishi discloses a method according to claim 15, but does not explicitly disclose further comprising: filtering based on country, locale, language or daily budget.

In an analogous art, Radwin discloses the use of demographic profiling in the art (page 2, parag. 7). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method as taught by Mitsubishi, with a filter for specific characteristics and features since it was known in the art that a filter to filter the identified advertisements relative to at least one of a country, locale, language, and daily budget is used to enhance the efficiency of the targeted advertisement by focusing the selection and ensuing delivery of the advertisement to users who are more likely to purchases the items advertised.

Response to Arguments

7. Applicant's arguments filed 2/12/2010 have been fully considered but they are not persuasive.

Applicants' argue that the cited references do not teach the limitation of an advertising creative generator based on the characteristics of the identified advertisement (page 12 et seq.). First, the examiner is grateful for the clarification of the limitation as shown in the specification; however, it is noted that the claimed limitation is directed to any characteristics; thus a broad and reasonable interpretation of the claimed limitation is met by the disclosure of Mitsubishi reciting the advertising being retrieved based on relationships between the search query and the advertisement database - thus the advertisement has to be characterized (§87-92).

Regarding applicants's argument that the cited reference do not teach the cutoff based on the cost parameter (page 15 et seq.), the examiner respectfully disagrees and notes the Mitsubishi reference teaches the feature of cost evaluation (§95-100). In an analogous art, Radwin teach the feature of fixed and variable cost evaluation (§3, 4) and Elderling teach the feature of cost evaluation based on the degree of matching (col 11, line 1-11 and col 13, lines 55-67). It would have been recognized that applying the technique of cost evaluation related to the degree of matching to the teachings of cost evaluation related to the degree of matching would have yielded predictable results because the level of ordinary skill in the art demonstrated by the references applied shows the ability to such cost evaluation features into similar systems. Further, the valuation feature would have been recognized by those of ordinary skill in the art as resulting in an improved system that would allow for an effective pricing and selection schematic available to the advertisers. It would be obvious to a skilled artisan that a cost cutoff would be a significant parameter as monetary payment would be expected from business transactions.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRI V. NGUYEN whose telephone number is (571)272-6965. The examiner can normally be reached on M-F 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119 and Eric Stamber can be reached on (571) 272-6724 for business method. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. V. N./
Examiner, Art Unit 1796
May 25, 2010

/Eric W. Stamber/
Supervisory Patent Examiner, Art Unit 3622